

## SECTION 2: GENERAL PROCEDURES

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- A. Construction Timing and Installation of Infrastructure.** The subdivider shall not proceed with any construction work on the proposed subdivision including grading and excavating relating to improvements, until the Commission has given preliminary plat approval and only if the construction is in accordance with the conditions of preliminary plat approval.

No installation of infrastructure improvements (i.e. roads, water and sewer facilities, utilities) shall take place within the site until all applicable permits as listed in Section 5.E of the Subdivision Regulations have been issued by the agency or agencies authorized by statute, rule of regulation to issue them. In addition, no installation of infrastructure improvements shall take place within the site until the subdivider or subdivider's water supply provider has provided evidence to Gallatin County, pursuant to Section 5.E of these Regulations, that the physical availability of water is sufficient to meet the water supply needs of the subdivision, as determined by the State of Montana, and that all uses of water within the subdivision are legally authorized. This requirement shall not preclude or prevent an applicant from proceeding with the testing needed to obtain the data necessary (whether under statute, rule or regulation) to apply for the permits required for final plat approval.

- B. Transfers of Title.** After a preliminary subdivision plat has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:

1. Under the terms of the contracts, the purchasers of lots in the proposed subdivision shall make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the state of Montana.
2. Under the terms of the contracts and the escrow agreement, the payments made by lot purchasers in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the Clerk and Recorder.
3. The contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the Clerk and Recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payment made under the contract.
4. The County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

5. The contracts shall contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the Clerk and Recorder, title to the property cannot be transferred in any manner."
6. Instruments Which Transfer Title: Under 76-3-302, MCA, the Clerk and Recorder shall not record any instrument which purports to transfer title to or possession of a parcel or tract of land which is required to be surveyed by the Act unless the required certificate of survey or subdivision plat has been reviewed, approved and filed with the Clerk and Recorder and the instrument or transfer describes the parcel or tract by reference to the filed certificate or plat.

**C. Permission to Enter.** The County Commission or its designated agent(s) or affected agencies identified during the pre-application meeting may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider and to subsequently monitor compliance with any conditions if the preliminary plat is approved conditionally. The submission of a subdivision application constitutes a grant of permission by the subdivider for the governing body, its agents, and affected agencies to enter the subject property. This consent applies to members of the public attending a noticed public meeting for a site visit.

**D. Appeals.**

- a. A person who has filed with the governing body an application for a subdivision under the MSPA and these regulations may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to the MSPA that is arbitrary or capricious.
- b. A party identified in subsection (d) below who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within 30 days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.
- c. For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

- d. The following parties may appeal under the provisions of subsection (b) above:
  - i. the subdivider;
  - ii. a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
  - iv. one of the following municipalities:
    - A. a first-class municipality as described in 7-1-4111, MCA if a subdivision is proposed within 3 miles of its limits;
    - B. a second-class municipality, as described in 7-1-4111, MCA if a subdivision is proposed within 2 miles of its limits;
    - C. a third-class municipality, as described in 7-1-4111, MCA if a subdivision is proposed within 1 mile of its limits.

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